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EXAMINER

POLLOCK, GREGORY A

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/769,075	Applicant(s) CULBRETH ET AL.	
	Examiner GREG POLLOCK	Art Unit 3695	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-18 and 20-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-18 and 20-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to claims filed 11/18/2009 and Applicant's request for reconsideration of application 10/769075 filed 11/18/2009.

The amendment contains original claims 5-18, 21, 22, and 24.

The amendment contains previously presented claims 3, 4, 16, 25, and 26.

The amendment contains amended claims 1, 20, 23, and 27.

Claims 2 and 19 have been canceled.

As such, claims 1, 3-18 and 20-27 have been examined with this office action.

Claim Interpretation - Intended Use or Intended Results

2. In determining patentability of an invention over the prior art, all claim limitations have been considered and interpreted as broadly as their terms reasonably allow. See MPEP § 2111.

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In *re Pruter*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969). See MPEP § 2111.

All claim limitations have been considered. Additionally, all words in the claims have been considered in judging the patentability of the claims against the prior art. The following language is interpreted as not further limiting the scope of the claimed invention. See MPEP 2106 II C.

Art Unit: 3695

Language in a method claim that states only the intended use or intended result, but the expression does not result in a manipulative difference in the steps of the claim. Language in a system claim that states only the intended use or intended result, but does not result in a structural difference between the claimed invention and the prior art. In other words, if the prior art structure is capable of performing the intended use, then it meets the claim. For example **claim 1** recites the claim limit “utilizing the application identifier for the software application” which has the intended use “to access information about the software application from a networked database containing information about the software applications available for the operating environment of the computer system;”. The statement “to access information about the software application from a networked database containing information about the software applications available for the operating environment of the computer system;” is interpreted as a statement of intended use of limit “utilizing the application identifier for the software application” and not a positive recitation.

Claim Interpretation - Preamble

3. According to MPEP 2111.02, if the body of a claim fully and intrinsically sets forth all of the limitations of the claimed invention, and the preamble merely states, for example, the purpose or intended use of the invention, rather than any distinct definition of any of the claimed invention's limitations, then the preamble is not considered a limitation and is of no significance to claim construction. Pitney

Art Unit: 3695

Bowes, Inc. v. Hewlett-Packard Co., 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165 (Fed. Cir. 1999). See also Rowe v. Dror, 112 F.3d 473, 478, 42 USPQ2d 1550, 1553 (Fed. Cir. 1997) ("where a patentee defines a structurally complete invention in the claim body and uses the preamble only to state a purpose or intended use for the invention, the preamble is not a claim limitation"); Kropa v. Robie, 187 F.2d at 152, 88 USPQ2d at 480-81 (preamble is not a limitation where claim is directed to a product and the preamble merely recites a property inherent in an old product defined by the remainder of the claim); STX LLC v. Brine, 211 F.3d 588, 591, 54 USPQ2d 1347, 1350 (Fed. Cir. 2000). If a prior art structure is capable of performing the intended use as recited in the preamble, then it meets the claim. See, e.g., In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). For example, **claim 1** (lines 1-2) recite a "method of generating an application identifier" with the intended use "for distinguishing a software application that is installed on the computer system from among other available software applications for an operating environment of the computer system, the installed software application comprising a plurality of files on the computer system, the files comprising at least an executable file and graphical icon data, the executable file having a name". **All independent claims appear to have such statements of intended use.**

***Claim Interpretation – “Adapted to”, “Adapted for”, “Capable to”, “Sufficient to”,
“FOR” doing something,***

4. **Claim 27** uses the phrase "capability to". Claim limitations that employ phrases of this type are typical of claim limitations which may not distinguish over prior art according to the principle. It has been held that the recitation that an element is “adapted to” perform or is “capable of” performing a function is not a positive limitation but only requires the ability to so perform. As such, any limit which follows such phrases can be treated as merely language of intended use, not a claim limitation. As such, it is unclear from the claims if the limits which follow instances of “capable to” are functional limits of the claimed invention or if the structural limit performing the claim limit only has to be capable of performing such limit.

Claim Interpretation - “Associated” and “information about”

5. **Claim 20** uses the phrase “associated” and **claims 1 and 27** use the phrase “information about”. Claim limitations that employ phrases of this type between claim elements are given their broadest reasonable interpretation of “any association between said claimed elements” and “any information about the claimed elements”. The terms “associated” and “information about” are broadly interpreted as any association and any information, including simple storage and identification of information on the same database or library containing information.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 6-18, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer et al. (U.S. Application No. 20010031066) in view of Fredlund et al. (U.S. Patent No. 6111950) in further view of Both (U.S. Patent No. 7412449).

As per claim 1, Meyer et al. teaches in a computer system ([¶118, line 1]), a method of generating an application identifier for distinguishing a software application that is installed on the computer system from among other available software applications for an operating environment of the computer system, the installed software application comprising a plurality of files on the computer system, the files comprising at least an executable file and graphical icon data, the executable file having a name, (hashing [¶28, lines 18-20] [¶48] and hashed metadata [¶28, lines 9-20]) Note that the phrase “for distinguishing a software application that is installed on the computer system from among other available software applications for an operating environment of the computer system, the installed software application comprising a plurality of files on the computer system, the files comprising at least an executable file and graphical icon data, the executable file having a name” is a statement of intended use for and, as such, is given no patentable weight.), the method comprising: generating the application identifier for the software application based on the applying of the identifier generation algorithm (binary data [¶13, line 4] and hashed metadata [¶28, lines 9-20], where metadata can include distinct application binary data comprising the software application.), the application identifier operable to distinguish the software application from among the other available software applications for the operating environment of the

Art Unit: 3695

computer system ([¶13, lines 12-16], [¶32, lines 1-5], [¶36, lines 7-11], and [¶46, lines 6-11] Note that the phrase “for the operating environment of the computer system” is a statement of intended use and, as such, is given no patentable weight.); **and utilizing the application identifier for the software application to access information about the software application from a networked database containing information about the software applications available for the operating environment of the computer system; and** ([¶19, lines 11-14], [¶58, lines 14-19], [¶61], and [¶67, lines 11-12] Note that the phrase “to access information about the software application from a networked database containing information about the software applications available for the operating environment of the computer system;” is a statement of intended use and, as such, is given no patentable weight.); **wherein the identifier generation algorithm is a hashing algorithm** (hashing [¶28, lines 18-20] and [¶48]). Meyer et al. further teaches a method **wherein the application data further comprises a name of the software application** (hashed metadata [¶28, lines 9-20]).

Meyer et al. does not teach **obtaining graphical icon data from the files of the installed software application, applying an identifier generation algorithm to a combined set of data for the software application, the combined set of data for the software application comprising the obtained graphical icon data from the files of the installed software application and the name of the executable file of the software application.**

Fredlund et al. teaches **obtaining graphical icon data from the files of the installed software application** (image data on a disk along with an application process that operates on those images can be obtained by a storage system [column 1, lines 33-46] [column 2, lines 38-45] [Figure 11] [column 5, lines 10-15] Figure 10 and [column 5, lines 9-18]), **applying an identifier generation algorithm to a combined set of data for the software application** ([column 2, lines 45-57]), **the combined set of data for the software application comprising the obtained graphical icon data from the files of the installed software application** (hashing signature created from the image data or files [Abstract, [column 5, line 58 – column 6, line 25]).

(Note that the term “icon” in the claim limits is non-functional descriptive language, and is therefore given no patentable weight. There is functionally no difference between graphical data as found in prior art and graphical icon data presently claimed by the applicant. Further, it is old and well known in the art that graphical icon data related as used for software applications are stored just as any other graphical data.)

It would have been obvious to one skilled in the art at the time of the invention to have combined the invention of Fredlund et al. with that of Meyer et al. to achieve the claimed invention. Fredlund et al. provides the association of image data with

Art Unit: 3695

an application program. Use of this association within Meyer et al. enables metadata searches for application programs based on their associated image file signature. Both Meyer et al. [¶12, lines 1-8] and Fredlund et al. acknowledges that other uses for their invention would be apparent to one skilled in the art. One skilled in the art would be motivated to combine the inventions because Fredlund et al. provides media such that an application will only operate with the images associated with in, thereby providing the consumer with the application limited to the needs of the user and at low cost. Meyer et al. makes the invention of Fredlund et al. more user friendly by providing metadata to the user useful in supplying auxiliary data as desired.

Meyer et al. and Fredlund et al. do not indicate that **the name of the executable file of the software application** is used as part of the hashed identifier.

Both teaches a method of hashing **a name for an executable file for the software application** ([Abstract] [column 3, lines 50-59]).

It would have been obvious to one skilled in the art at the time of the invention to have combined the invention of Both with that of Meyer et al. and Fredlund et al. to obtain the claimed invention. One would be motivated to combine the inventions because Both provides hashing which can be used to index and retrieve file objects in a database management system because it is faster to find the file object using the shorter hash value than to find it using the original string.. Thus both the cost of storage and the amount of time required to find the file object are reduced due to the use of a shorter hash value than that of the original string.

As per claim 6, the rejection of claim 1 has been addressed.

Meyer et al. does not specifically teach a method where **the graphical icon data is obtained from an icon file**.

Fredlund et al. teaches a method where **the graphical icon data is obtained from an icon file** (hashing signature created from the image data or files [Abstract, [column 5, line 58 – column 6, line 25]).

(Note that the term “icon” in the claim limits is non-functional descriptive language, and is therefore given no patentable weight. There is functionally no difference between graphical data as found in prior art and graphical icon data as claimed. Further, it is old and well known in the art that graphical icon data related to software applications are stored just as any other graphical data.).

It would have been obvious to one skilled in the art at the time of the invention to have combined the invention of Fredlund et al. with that of Meyer et al. to achieve the claimed invention. Fredlund et al. provides the association of image data with

Art Unit: 3695

an application program. Use of this association within Meyer et al. enables metadata searches for application programs based on their associated image file signature. Both Meyer et al. [¶12, lines 1-8] and Fredlund et al. acknowledges that other uses for their invention would be apparent to one skilled in the art. One skilled in the art would be motivated to combine the inventions because Fredlund et al. provides media such that an application will only operate with the images associated with in, thereby providing the consumer with the application limited to the needs of the user and at low cost. Meyer et al. makes the invention of Fredlund et al. more user friendly by providing metadata to the user useful in supplying auxiliary data as desired.

As per claim 7, the rejection of claim 1 has been addressed.

Meyer et al. teaches a method **further comprising comparing the application identifier with a list of application identifiers** (maps the identifier to actions [¶22, line 14-17], where the identifier can be generated using hashing [¶28, lines 18-20] and [¶48]) **to determine an attribute of the software application** ([¶22, lines 10 to ¶23 line 4], where the data which is returned is metadata (see Figure 1). Metadata, or auxiliary data, may provide information describing the attributes of the software application [¶4 lines 6-10]).

As per claim 8, the rejection of claim 7 has been addressed.

Meyer et al. teaches a method **wherein the attribute comprises a parental control rating for the software application** ("inappropriate content for children" [¶23, line 19-21] and metadata [¶22, line 10 - ¶23 line 4]).

As per claim 9, the rejection of claim 1 has been addressed.

Meyer et al. teaches a method **further comprising sending the application identifier in a database query** ([¶23, lines 12-14], [¶31, line 9], [¶51, lines 9-12]).

As per claim 10, the rejection of claim 9 has been addressed.

Meyer et al. teaches a method **wherein a database receives the database query** ([¶23, lines 12-14], [¶31, line 9], [¶51, lines 9-12]), **and wherein the database returns results indicating whether metadata relating to the software application can be obtained from a metadata service** (metadata is returned [Abstract lines 6-9], [¶ 22 lines 10-14], [¶23 lines 1-2], [¶23 lines 17-19], [¶24 lines 2-3], [¶25 lines 11-14], [¶31 lines 1-12] and the server responds to user if no association is found [¶7 lines 13-19]).

As per claim 11, the rejection of claim 9 has been addressed.

Meyer et al. teaches a method **wherein a database receives the database query, and wherein the database returns results indicating whether the software application is of a particular application type** ([¶22, lines 10 to ¶23 line 4] and [¶48]).

Art Unit: 3695

As per claim 12, the rejection of claim 1 has been addressed.
Meyer et al. teaches a method **wherein the application data further comprises a name of the software application** (hashed metadata [¶28, lines 9-20]).

As per claim 13, the rejection of claim 12 has been addressed.
Meyer et al. teaches a method **wherein the name is a name of an executable file** (hashed metadata [¶28, lines 9-20]).

As per claim 14, the rejection of claim 1 has been addressed.
Meyer et al. and Fredlund et al. do not specifically teach that **the application identifier is a unique ([Abstract]) fixed-length string**

Both teaches a method **wherein the application identifier is a unique ([Abstract]) fixed-length string** ([column 2, lines 48-52]).

It would have been obvious to one skilled in the art at the time of the invention to have combined the invention of Both with that of Meyer et al. and Fredlund et al. to obtain the claimed invention. One would be motivated to combine the inventions because Both provides hashing which can be used to index and retrieve file objects in a database management system because it is faster to find the file object using the shorter hash value than to find it using the original string.. Thus both the cost of storage and the amount of time required to find the file object are reduced due to the use of a shorter hash value than that of the original string.

As per claim 15, the rejection of claim 1 has been addressed.
Meyer et al. teaches a method **further comprising storing the application identifier in a data file along with one or more other application identifiers for other software applications** ([¶18, line 6] and [¶28, line 19], where a database is the data file.).

As per claim 16, the rejection of claim 1 has been addressed.
Meyer et al. teaches a method **wherein the applying of the identifier generation algorithm comprises using functions included in an application programming interface** ([¶19, lines 11-14], [¶58, lines 14-19], [¶61], and [¶67, lines 11-12]).

As per claim 17, the rejection of claim 1 has been addressed.
Meyer et al. teaches a method **wherein the application data further comprises registry data** ([¶15, lines 1-6], [¶18 line 1 to ¶19, line 5]).

As per claim 18, the rejection of claim 1 has been addressed.

Art Unit: 3695

Meyer et al. teaches a method **wherein the software application is a gaming-related software application** (hashing [¶28, lines 18-20] and [¶48], where “gaming- related software application” is non-functional descriptive matter and, as such, is given no patentable weight. Further, “gaming- related software application” is old and well known in the art, see Alcorn et al (U.S. Patent 7063615) as an example.).

As per claim 27, All of the limits of Claim 27 have been previously addressed in Claim 1, and is therefore rejected using the same prior art and rationale.

8. Claims 3-5 and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer et al. (U.S. Application No. 20010031066) in view of Fredlund et al. (U.S. Patent No. 6111950) in further view of Both (U.S. Patent No. 7412449) in further view of official notice.

As per claim 3, the rejection of claim 1 has been addressed. Meyer et al. and Fredlund et al. do not specifically teach that **the hashing algorithm is a one-way hashing algorithm**.

One-way hashing algorithms are old and well known in the art (see Naor et al. (Moni Naor and Moti Young, “Universal One-Way Hash Functions and their Cryptographic Applications”, appearing in Proceedings of the Twenty First Annual ACM Symposium on Theory of Computing. (May 15--17 1989: Seattle, WA, USA) [¶1, lines 1] as an example). Note that the use of specific hashing algorithms is a design choice, and is given no patentable weight.

It would be obvious to one of ordinary skill in the art at the time of the invention to have used a one-way hashing algorithm within the inventions of Meyer et al. and Fredlund et al. One would be motivated to use a one-way hashing algorithm within the inventions of Meyer et al. and Fredlund et al. because one-way hashing algorithms have the main property that for every given input, it is computationally hard to find a different domain element input which collides with that input. This feature would increase the reliability of the inventions of Meyer et al. and Fredlund et al. by ensuring that search algorithms find one and only one search object for every input request.

As per MPEP § 2144.03(C), with respect to an Examiner's use of Official Notice:

Art Unit: 3695

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111 (b).

The same section continues:

If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.

Applicant has not challenged or traversed the examiner's use of official notice in the previous office action, and repeated herein. As such, the examiner now considers as admitted prior art, that "that one-way hashing algorithms are old and well known in the art" are taken to be admitted as prior art considered to be common knowledge or well-known in the art.

As per claim 4, the rejection of claim 1 has been addressed. Meyer et al. and Fredlund et al. do not specifically teach that **the application identifier is a 20-byte hash value**.

Generated a 20-byte hash values are old and well known in the art (see Naor et al. (Moni Naor and Moti Young, "Universal One-Way Hash Functions and their Cryptographic Applications", appearing in Proceedings of the Twenty First Annual ACM Symposium on Theory of Computing. (May 15--17 1989: Seattle, WA, USA) [paragraph 8, line 8-9] as an example). Note that the use of specific hashing algorithms is a design choice, and is given no patentable weight.

It would be obvious to one of ordinary skill in the art at the time of the invention to have generated a 20-byte hash value within the inventions of Meyer et al. and Fredlund et al. One would be motivated to have generated a 20-byte hash value within the inventions of Meyer et al. and Fredlund et al. because the transformation of a string of text characters into a generally shorter, fixed-length hash value that represents the original string can be used to index and retrieve file objects in a database management system faster when finding file objects using the shorter hash value than to find it using the original string. It is noted again that the length of the hash value is a design choice and function can be of any length that is smaller than the object being searched to gain the benefits of hashing.

Art Unit: 3695

As per MPEP § 2144.03(C), with respect to an Examiner's use of Official Notice:

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111 (b).

The same section continues:

If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.

Applicant has not challenged or traversed the examiner's use of official notice in the previous office action, and repeated herein. As such, the examiner now considers as admitted prior art, that "that generated a 20-byte hash values are old and well known in the art" are taken to be admitted as prior art considered to be common knowledge or well-known in the art.

As per claim 5, the rejection of claim 1 has been addressed. Meyer et al. and Fredlund et al. do not specifically teach that **graphical icon data is obtained from an application binary**.

Obtaining graphical data from an application binary is old and well known in the art (see Tynan et al. (PGPub No. 20020032489) [¶20 lines 2-4] as an example).

It would be obvious to one of ordinary skill in the art at the time of the invention that the graphical data within the inventions of Meyer et al. and Fredlund et al. would be stored and obtained in binary form. From Fredlund et al. [¶68], [¶78], [¶90], [¶125], [¶208] [¶423], [¶503-509], [¶599], [¶651-697] it is clear that the digital signals (or objects) are stored and processed in binary form. One would be motivated to obtain graphical data in binary form since this is the standard form for storage and processing of information in a computer system, making the inventions of Meyer et al. and Fredlund et al. compatible, and therefore, more marketable to users.

As per MPEP § 2144.03(C), with respect to an Examiner's use of Official Notice:

Art Unit: 3695

To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. See 37 CFR 1.111 (b).

The same section continues:

If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate. If the traverse was inadequate, the examiner should include an explanation as to why it was inadequate.

Applicant has not challenged or traversed the examiner's use of official notice in the previous office action, and repeated herein. As such, the examiner now considers as admitted prior art, that "that obtaining graphical data from an application binary is old and well known in the art " are taken to be admitted as prior art considered to be common knowledge or well-known in the art.

As per claim 20

Meyer et al. and Fredlund et al. do not specifically teach a method **of hashing a name for an executable file for the software application, wherein the graphical user interface-based gaming activity center displays at least one game that was introduced to the activity center through an automatic search and at least one game that was introduced to the activity center through a manual search**

Both teaches a method of hashing **a name for an executable file for the software application ([Abstract]), wherein the graphical user interface-based gaming activity center displays at least one game that was introduced to the activity center through an automatic search and at least one game that was introduced to the activity center through a manual search** (a user or a program can initiate the file object retrieval [column 3, lines 50-59]).

It would have been obvious to one skilled in the art at the time of the invention to have combined the invention of Both with that of Meyer et al. and Fredlund et al. to obtain the claimed invention. One would be motivated to combine the inventions because Both provides hashing which can be used to index and retrieve file objects in a database management system because it is faster to find the file object using the shorter hash value than to find it using the original string.. Thus both the cost of storage and the amount of time required to find the file

Art Unit: 3695

object are reduced due to the use of a shorter hash value than that of the original string.

All of the remaining limits of Claim 20 have been previously addressed in Claim 1, 5, 9, 10, 12, 14, and 18, and is therefore rejected using the same prior art and rationale.

As per claim 21, the rejection of claim 20 has been addressed.

All of the limits of Claim 21 have been previously addressed in Claim 10 and is therefore rejected using the same prior art and rationale.

As per claim 22, the rejection of claim 20 has been addressed.

Meyer et al. teaches **wherein the graphical user interface-based gaming activity center is a feature of an operating system** ([¶110, lines 1-2], where “gaming- related software application” is non-functional descriptive matter and, as such, is given no patentable weight. Further, “gaming- related software applications” are old and well known in the art, see Alcorn et al (U.S. Patent 7063615) as an example.)).

As per claim 23, All of the limits of Claim 23 have been previously addressed in Claims 1 and 20 and is therefore rejected using the same prior art and rationale.

As per claim 24, the rejection of claim 23 has been addressed.

All of the limits of Claim 25 have been previously addressed in Claim 20, and is therefore rejected using the same prior art and rationale.

As per claim 25, the rejection of claim 23 has been addressed.

Meyer et al. **further teaches a method wherein the query to the application database comprises a request for metadata relating to the software application, and wherein the response to the query comprises metadata relating to the software application** [¶22, lines 10 to ¶23 line 4]).

As per claim 26, the rejection of claim 23 has been addressed.

All of the limits of Claim 26 have been previously addressed in Claim 8, and is therefore rejected using the same prior art and rationale.

Response to Arguments

9. Applicant's arguments with regards to claims 1, 3-18 and 20-27, filed 11/18/2009 have been fully considered but they are not persuasive.

Art Unit: 3695

10. APPLICANT REMARKS CONCERNING Claim Rejections - 35 USC § 103 (page 9): The applicant contends that none of the cited art whether considered singly or in combination teach or suggest to generate an identifier for an installed software application from a combination of the graphical icon and executable file name in the files of the installed software application..
11. EXAMINER'S RESPONSE: The Examiner respectfully disagrees with Applicant's arguments. The applicant appears to be arguing that the intended use of generating an identifier for an installed software application from a combination of the graphical icon and executable file name in the files of the installed software application has not been identified in the prior art. The fact that the applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). As shown in the prior art mapping, the claim features are shown in the prior art, but used for a different purpose.
12. APPLICANT REMARKS CONCERNING Claim Rejections - 35 USC § 103 (page 9): The applicant contends that Meyer describes using an identifier such as a watermark embedded in a media object, which may be an image. (Meyer at paragraph [0007].) Meyer actually teaches using the embedded identifier or watermark in the media object, and not the graphical content of the object itself. Regardless, however, Meyer describes that the embedded identifier is sufficient

Art Unit: 3695

to link metadata and other actions with a media object. The number of media objects, even just considering images alone, vastly outnumber the total number of software applications available on any computer operating platform.

Accordingly, Meyer's description that an embedded identifier is sufficient to link to metadata of media objects would certainly lead away from having to combine other information of an installed software application to distinguish from among other available software applications for an operating environment.

Fredlund describes creating a unique signature for each image from the data of the image. (Fredlund at Abstract.) Similar to Meyer, Fredlund describes that rather than using the graphical content of the image, the identifier is actually data embedded in or added to the image data file. , Fredlund does not appear to use the identifier to distinguish from other items, but rather to indicate whether a particular application has permission to process the image. (Fredlund, at column 4, lines 39-41 .) Regardless, because Fredlund indicates the identifier embedded in the image file is sufficient for the operation, Fredlund (like Meyer) would actually lead those skilled in the art away from combining any other data to create an identifier to be distinct from other available software applications.

13. EXAMINER'S RESPONSE: The Examiner respectfully disagrees with Applicant's arguments. As pointed out in the applicant's arguments both Meyer and Fredlund embed the identifier (hashed value) into an object. Therefore, the use of the two inventions together is consistent. Further, the fact that the hash identifier has been embedded into the application or graphical file does not preclude its use

Art Unit: 3695

with the claimed invention, since the method steps can “comprise” additional method steps not claimed. As such, the Meyer and Fredlund appear to be logically combined and consistent with the claimed invention.

APPLICANT REMARKS CONCERNING Claim Rejections - 35 USC § 103 (page

9): The applicant contends that Both describes hashing a name of a document to use in locating and retrieving the document from a document subdirectory of a file system. (Both at Abstract.) Because Both indicates the hashed name already is sufficient to perform the locating and retrieval operation, Both also would actually lead away from combining any other information to create his document identifier.

The Office also alleges that the motivation for one of ordinary skill in the art to combine Both with Meyer/Fredlund is that the hashing of a document name avoids need for a database management system. However, the claimed method and systems in the present application explicitly recite to use the identifier created from the combined data of the icon and executable name in a query to a networked database. Accordingly, Both's description that hashing a document name avoids use of a database management system would actually lead one away from the claimed combination where the generated identifier is used specifically to query a database.

14. EXAMINER'S RESPONSE: The Examiner respectfully disagrees with Applicant's arguments. The cited portion of Both [column 2, lines 46-59] state that “Hashing

Art Unit: 3695

can be used to index and retrieve file objects in a database management system because it is faster to find the file object using the shorter hash value than to find it using the original string. In one method hashing is used in a file system to store and retrieve a large volume of documents without a need for a database management system.”. The examiner has changed the motivation to combine in this office action to indicate the use of the database management system, to more clearly address that applicant’s argument.

15. Therefore, in view of the above reasons, Examiner maintains rejections.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pollock whose telephone number is 571 270-1465. The examiner can normally be reached on 7:30 AM - 4 PM, Mon-Fri Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Chuck Kyle can be reached on 571 272-5233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3695

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GAP

02/11/2010

/Gregory Pollock/
Examiner, Art Unit 3695

Gregory A. Pollock

/Lewis A. Bullock, Jr./
Supervisory Patent Examiner, Art Unit 2193